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SENATE BILL 22

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Mary Jane M. Garcia

AN ACT

RELATING TO CHILD ABUSE; REQUIRING FAMILY MEMBERS TO REPORT  
CHILD ABUSE OR NEGLECT; AMENDING A SECTION OF THE ABUSE AND  
NEGLECT ACT; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 32A-4-3 NMSA 1978 (being Laws 1993,  
Chapter 77, Section 97, as amended) is amended to read:

"32A-4-3. DUTY TO REPORT CHILD ABUSE AND CHILD  
NEGLECT--RESPONSIBILITY TO INVESTIGATE CHILD ABUSE OR NEGLECT--  
PENALTY.--

A. Every person, including a licensed physician; a  
resident or an intern examining, attending or treating a child;  
a law enforcement officer; a judge presiding during a  
proceeding; a registered nurse; a visiting nurse; a  
schoolteacher; a school official; a social worker acting in an

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1 official capacity; or a member of the clergy who has  
2 information that is not privileged as a matter of law, who  
3 knows or has a reasonable suspicion that a child is an abused  
4 or a neglected child shall report the matter immediately to:

5 (1) a local law enforcement agency;

6 (2) the department; or

7 (3) a tribal law enforcement or social  
8 services agency for any Indian child residing in Indian  
9 country.

10 B. A person who is a family member of a child and  
11 who knows or has a reasonable suspicion that the child is an  
12 abused or a neglected child shall report the matter immediately  
13 as provided in Subsection A of this section.

14 ~~[B.]~~ C. A law enforcement agency receiving the  
15 report shall immediately transmit the facts of the report and  
16 the name, address and phone number of the reporter by telephone  
17 to the department and shall transmit the same information in  
18 writing within forty-eight hours. The department shall  
19 immediately transmit the facts of the report and the name,  
20 address and phone number of the reporter by telephone to a  
21 local law enforcement agency and shall transmit the same  
22 information in writing within forty-eight hours. The written  
23 report shall contain the names and addresses of the child and  
24 the child's parents, guardian or custodian, the child's age,  
25 the nature and extent of the child's injuries, including any

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1 evidence of previous injuries, and other information that the  
2 maker of the report believes might be helpful in establishing  
3 the cause of the injuries and the identity of the person  
4 responsible for the injuries. The written report shall be  
5 submitted upon a standardized form agreed to by the law  
6 enforcement agency and the department.

7 ~~[C.]~~ D. The recipient of a report under Subsection  
8 A or B of this section shall take immediate steps to ensure  
9 prompt investigation of the report. The investigation shall  
10 ensure that immediate steps are taken to protect the health or  
11 welfare of the alleged abused or neglected child, as well as  
12 that of any other child under the same care who may be in  
13 danger of abuse or neglect. A local law enforcement officer  
14 trained in the investigation of child abuse and neglect is  
15 responsible for investigating reports of alleged child abuse or  
16 neglect at schools, daycare facilities or child care  
17 facilities.

18 ~~[D.]~~ E. If the child alleged to be abused or  
19 neglected is in the care or control of or in a facility  
20 administratively connected to the department, the report shall  
21 be investigated by a local law enforcement officer trained in  
22 the investigation of child abuse and neglect. The  
23 investigation shall ensure that immediate steps are taken to  
24 protect the health or welfare of the alleged abused or  
25 neglected child, as well as that of any other child under the

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1 same care who may be in danger of abuse or neglect.

2 ~~[E.]~~ F. A law enforcement agency or the department  
3 shall have access to any of the records pertaining to a child  
4 abuse or neglect case maintained by any of the persons  
5 enumerated in Subsection A of this section, except as otherwise  
6 provided in the Abuse and Neglect Act.

7 ~~[F.]~~ G. A person who violates the provisions of  
8 Subsection A of this section is guilty of a misdemeanor and  
9 shall be sentenced pursuant to the provisions of Section  
10 31-19-1 NMSA 1978.

11 H. A person who violates the provisions of  
12 Subsection B of this section is guilty of a fourth degree  
13 felony and shall be sentenced pursuant to the provisions of  
14 Section 31-18-15 NMSA 1978, except if the abuse or neglect  
15 results in the death of a child, the person is guilty of a  
16 third degree felony.

17 I. As used in this section, "family member" means:

18 (1) a person who is related within the third  
19 degree of consanguinity or affinity and includes parents,  
20 grandparents, great-grandparents, children, grandchildren,  
21 great-grandchildren, brothers, sisters, uncles, aunts, nephews,  
22 nieces and spouses; or

23 (2) a person who is residing in the same  
24 household as the child."